



6351-01-P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Renew Collection 3038-0103, Ownership and Control Reports, Forms 102/102S, 40/40S, and 71 (Trader and Account Identification Reports)

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the proposed renewal of the collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the Federal Register concerning each proposed collection of information and to allow 60 days for public comment. This notice solicits comments in connection with information collection requirements under certain rules and related forms (the “final rules”) that the Commission adopted to enhance its identification of futures and swap market participants.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by OMB Control No. 3038-0103, by any of the following methods:

- The Agency’s web site, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the web site.
- Mail: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- Hand Delivery/Courier: Same as Mail above.

Please submit your comments using only one of these methods and identify that it is for the renewal of Collection Number 3038-0103. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: David Aron, Special Counsel, Division of Market Oversight, at 202-418-6621 or daron@cftc.gov, and refer to OMB Control No 3038-0103.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Ownership and Control Reports, Forms 102/102S, 40/40S, and 71 (Trader and Account Identification Reports) (OMB Control No. 3038-0103). This is a request for extension of a currently approved information collection.

Abstract: The final rules¹ created new information collection requirements via §§ 17.01, 18.04, 18.05, and 20.5. Specifically, § 17.01 provides for the filing of Form 102A, Form 102B and Form 71, as follows:

- pursuant to § 17.01(a), futures commission merchants (“FCMs”), clearing members, and foreign brokers shall identify new special accounts to the Commission on Form 102A;
- pursuant to § 17.01(b), clearing members shall identify volume threshold accounts to the Commission on Form 102B; and
- pursuant to § 17.01(c), omnibus volume threshold account originators and omnibus reportable sub-account originators shall identify reportable sub-accounts to the Commission on Form 71 when requested via a special call by the Commission or its designee.

Additional reporting requirements arise from § 18.04, which results in the collection of information via Form 40 from and regarding traders who own, hold, or control reportable positions; volume threshold account controllers; persons who own volume threshold accounts; reportable sub-account controllers; and persons who own reportable sub-accounts.

Reporting requirements also arise from § 20.5(a), which requires all reporting entities to submit Form 102S for swap counterparty or customer consolidated accounts with reportable positions. In addition, § 20.5(b) requires every person subject to books or records under current § 20.6 to complete a 40S filing after a special call upon such person by the Commission.

In addition to the reporting requirements summarized above, § 18.05 imposes recordkeeping requirements upon: (1) traders who own, hold, or control a reportable futures or options on futures position; (2) volume threshold account controllers; (3) persons who own

¹ See Commission, Final Rule: Ownership and Control Reports, Forms 102/102S, 40/40S, and 71, 78 FR 69178 (November 18, 2013). Terms used herein and not otherwise defined herein shall have the meaning assigned to such terms in the final rules or in the Commission’s regulations.

volume threshold accounts; (4) reportable sub-account controllers; and (5) persons who own reportable sub-accounts.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.²

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection

² 17 CFR 145.9.

Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission estimates the burden of this collection of information as follows:

- Form 102A

Estimated Number of Respondents: 260.

Estimated Average Burden Hours Per Respondent: 106.

Estimated Total Annual Burden Hours: 27,560.

- Form 102B

Estimated Number of Respondents: 175.

Estimated Average Burden Hours Per Respondent: 106.

Estimated Total Annual Burden Hours: 18,550.

- Form 71

Estimated Number of Respondents: 762.

Estimated Average annual Burden Hours Per Respondent: 8.

Estimated Total Annual Burden Hours: 6,096.

- Form 40 (arising from Form 102A)

Estimated Number of annual Responses: 5250.

Estimated Average Burden Per Response: 5.

Estimated Total Annual Burden Hours: 26,250.

- Form 40 (arising from Form 102B and Form 71)

Estimated Number of annual Responses: 18,920.

Estimated Average Burden Per Response: 5.

Estimated Total Annual Burden Hours: 94,600.

- Form 102S

Estimated annual Number of Respondents: 39.

Estimated Average Burden Hours Per Respondent: 106.

Estimated Total Annual Burden Hours: 4134.

- Form 40S

Estimated Number of annual Responses: 2,508.

Estimated Average Burden Per Response: 5.

Estimated Total Annual Burden Hours: 12,540.

- § 18.05 Recordkeeping burden

Estimated Number of annual Responses: 53.

Estimated Average Burden Per Response: 5.

Estimated Total Annual Burden Hours: 265.

Total Burden Hours for the Collection: 189,995.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: August 13, 2020.

Robert Sidman,

Deputy Secretary of the Commission.

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